

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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COVON MARTIN, a child under the age of 18  
years by his mother and guardian Kim Martin;  
and KIM MARTIN mother and guardian of  
Covon Martin;

Plaintiffs,

-v-

1:02-CV-1281

RICHARD W. MOSCOWITZ, M.D. and  
RICHARD W. MOSCOWITZ, M.D., P.A., P.C.,

Defendants.

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APPEARANCES:

OF COUNSEL:

BRADLEY A. SACKS, ESQ.  
Attorney for Plaintiffs  
20 Vesey Street, Suite 200  
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MEISELMAN, DENLEA, PACKMAN, CARTON  
& EBERZ P.C.  
Attorneys for Defendant  
1311 Mamaroneck Avenue  
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RICHARD J. NEALON, ESQ.

DAVID N. HURD  
United States District Judge

**DECISION and ORDER**

Upon reconsideration, defendant has waived any structured judgment pursuant to N.Y. C.P.L.R. § 5031. Therefore, plaintiff's counsel's application for a higher fee is moot. Additionally, plaintiff is entitled to interest running from August 17, 2006, at the New York

State rate of 9% per annum. Finally, plaintiff has accepted the remittitur, requiring amendment of the judgment.

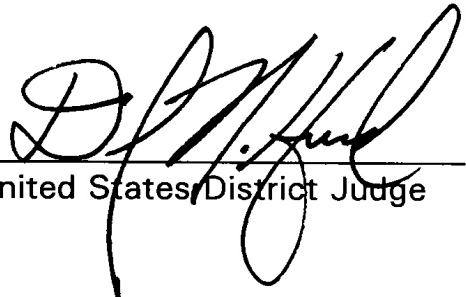
Accordingly, it is

ORDERED that

1. Defendant's motion to structure the verdict is DENIED;
2. Plaintiff's cross-motion for post-judgment interest is GRANTED and interest at the rate of 9% per annum for a total of \$282,044.47 will be added to the judgment amount; and
3. Plaintiff's motion for higher attorney's fees is DENIED as moot.

The Clerk of the Court is directed to enter an amended judgment in favor of plaintiffs against defendants in the total amount of \$3,182,044.47, consisting of interest in the amount of \$282,044.47 and damages in the amount of \$2,900,000.00 (\$400,000.00 for surgeries performed; \$400,000.00 for pain and suffering to the present; \$1,750,000.00 for future pain and suffering; number of years 55; and \$350,000.00 for future medical expenses).

IT IS SO ORDERED.



United States District Judge

Dated: September 13, 2006  
Utica, New York.